

## REGULAR MEETING

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SUBJECT: Update on Federal Legislation

ITEM NUMBER: 8b

ATTACHMENT(S): 1

ACTION: X

DATE OF MEETING: June 4, 1998

INFORMATION:     

PRESENTER: Ms. DuCray-Morrill

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### Update on Medicare Part A Relief

Under previous law, retirees of State and local governments who are not insured for Medicare Part A (Hospital Insurance) may obtain Medicare Part A only by paying a monthly premium in excess of \$300. Although Medicare taxes became mandatory for new hires on and after April 1, 1986, there is a limited number of people who are still not covered by Medicare Part A and must pay for their hospital health care on their own. Effective January 1998, federal legislation enacted in 1997 (Budget Reconciliation Act of 1997) will allow this group of retired individuals relief from Medicare Part A premiums under the following conditions: 1) they must be receiving a cash retirement benefit based on public sector work, which includes STRS retired members or their beneficiaries; 2) they must have paid for Medicare Part A premiums on their own for seven years in a row; and 3) they must have worked at least 10 years during their career. This relief may also extend to spouses, widows/widowers and divorced spouses.

Implementation efforts are currently underway to begin processing claims already received from the Social Security Administration (SSA). The SSA sent letters and questionnaires this past February to all individuals currently paying Medicare Part A premiums. In response to this, STRS has received over 400 individual names of people who believe they may qualify for this relief. The STRS Client Benefits and Services Branch is coordinating with the SSA to provide the information needed to determine eligibility for these individuals. An article on this issue will also be released in the STRS Retired Educator in mid-July.

Thanks to the efforts of Congress Members Pete Stark (D-Hayward) and Bill Thomas (R-Bakersfield), who were instrumental in drafting this very important relief legislation for these retirees.

Attached is a comprehensive report from Hogan & Hartson on additional issues at the federal level. Ms. DuCray-Morrill will provide a verbal presentation at the meeting.

**MEMORANDUM FOR  
THE CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM**

**Washington Monthly Report**

**Mandatory Social Security**

The House Ways and Means Social Security Subcommittee's hearing on mandatory coverage for State and local workers will finally go forward on May 21. In addition to mandatory coverage, the hearing will consider the impact of the Government Pension Offset and the Windfall Elimination Provision which reduce Social Security benefits or spousal benefits for retirees receiving a government pension.

In announcing the hearing, Subcommittee Chairman Jim Bunning (R-Ky.) stated: Most Americans are surprised to learn that not all workers are covered by Social Security. To many, covering those State and local government workers not covered under Social Security is an issue of simple fairness. Yet, changing the retirement systems of many of our teachers, firefighters, and police forces could have far reaching effects on those workers and the long-term financing of their retirement plans. These workers have devoted their careers to us, ensuring the safety and sound education of ourselves and our children. Their views are very important to this Subcommittee, and we need to listen and carefully consider what they have to say."

The Subcommittee's hearing announcement points out that 96 percent of the workforce, including 70 percent of State and local government workers, now fall under Social Security and that about 4.9 million State and local workers are not now covered by Social Security. Seven States -- California, Colorado, Illinois, Louisiana, Massachusetts, Ohio and Texas -- are said to account for over 75 percent of non-Social Security covered payroll. The principal occupations of non-covered State and local workers are police, firefighters, and teachers.

The witnesses will include unspecified Members of Congress, the U.S. General Accounting Office (GAO) who will testify on the results of their study, the Massachusetts Teachers plan (Rep. Neal of Massachusetts serves on the Subcommittee), the Ohio Public Employees plan (Rep. Portman of Ohio serves on the Subcommittee), a Kentucky representative of the Fraternal Order of Police (the Subcommittee Chairman is from Kentucky), the Nevada Public Employees plan (added at the request of Rep. Ensign, a Ways and Means Member from Nevada who is running for Senate), and a representative of the Advisory Council on Security. Federal and state employee groups will be heard from on the offset issues.

We will be attending the hearing with STRS staff. Written statements may be submitted for the record by June 4.

We have been continuing to coordinate with the coalition of State and local organizations seeking to stave off any proposal to impose mandatory Social Security coverage for all State and local government new hires. The coalition has broadened considerably beyond the original OPPOSE group and now includes in addition to CalSTRS and various other individual plans the National Council on Teacher Retirement, the National Association of State Retirement Administrators, the Government Finance Officers Association, and a broad range of national organizations of State and local government, employer, and employee groups.

The broadened coalition has begun meeting on a regular basis and is organizing to embark on an ambitious grassroots lobbying campaign between now and year-end. It is becoming increasingly evident that Social Security reformers from various quarters are looking at mandatory Social Security for new State and local government workers as a means of helping to pay for transition to their version of a "reformed" Social Security system, such as a partially privatized system. Thus, mandatory Social Security could serve as a funding source for the restructuring plans being proposed by conservatives and others who historically have been allies on the mandatory Social Security issue.

We continue to believe that in the end the effort to stave off mandatory Social Security as part of a comprehensive Social Security restructuring package will come down to the effectiveness of the political pressure mounted over the next 6 to 9 months by the grassroots of affected State and local governments, plans, employers, and employee groups, coupled with the Washington efforts of the national groups and active individual plans.

Congress is in the process of enacting legislation that would establish a new national commission to examine options for achieving long-term solvency for Social Security. The commission would have 8 members, with four members appointed by the House and Senate GOP Leadership, 2 by the President, and 2 by the House and Senate Democratic leadership. The commission is required to report by February 1 of next year, with the recommendations to be approved by a "supermajority" (6 of 8) commission members. It remains to be seen whether this commission will become the true venue for bipartisan efforts at Social Security reform.

### **Elk Hills Appropriations Legislation**

We are continuing to make efforts to secure the Congressional appropriation necessary to fund the first \$36 million installment of compensation due to the State for its interest in the Elk Hills Naval Petroleum Reserve under the State's settlement with the Federal Government.

Rep. Bill Thomas (R-Bakersfield) continues to have discussions with the House budget and appropriations leadership in an effort to gain the appropriation. In addition, Rep. Vic Fazio (R-Sacramento), a senior Democrat on the House Appropriations Committee, has been actively pursuing the issue with the appropriations leadership. Finally, Bob Michel, the longtime Minority leader of the House of Representatives who is now at our firm, has had a series of discussions with key Members.

It remains unclear how the appropriations process will unfold this year. Traditionally, the adoption of a budget resolution by the House and the Senate is a prerequisite to the start of appropriations action by setting overall budget ceilings. However, the House and the Senate remain far apart on the size of budget cuts. If the disagreement is not resolved fairly soon, the appropriators will begin work based on last year's ceilings.

### **Tobacco Settlement Legislation**

The Senate tobacco bill is headed to the Senate Floor for debate and an apparent vote during the week of May 18. At the last minute, the Senate Finance Committee asserted jurisdiction over the revenue provisions of the comprehensive legislation drafted by Senate Commerce Committee Chairman John McCain (R-Ariz.). In a stunning defeat for Senate Finance Chairman Bill Roth (R-Del.), the Finance Committee voted to sharply increase the excise tax on cigarettes by 50 cents per pack in 1999, \$1.00 in 2000 and \$1.50 in 2001 and thereafter, with the tax being indexed for inflation beginning 1/1/02.

The excise tax would replace the annual schedule of industry payments specified in the McCain bill. Under the McCain bill, within 30 days after enactment the industry would be required to pay \$10 billion into a new National Tobacco Settlement Trust fund, with Phillip Morris owing \$6.58 billion, Brown and Williamson \$1.73 billion, Lorillard \$710 million, R.J. Reynolds \$660 million, and U.S. Tobacco \$320 million. Thereafter, under the McCain bill for each calendar year beginning after date of enactment, annual payments would be required beginning at \$14.4 billion and rising over 5 years to a yearly payment of \$23.6 billion, for a total of \$564.1 billion over 25 years. In addition, a "look-back" surcharge of as much as \$2 billion per year would be imposed if targets were not achieved in the reduction of underage smoking. A separate annual cap of \$6.5 billion would be placed on industry liability in litigation. These separate liability payments would be unaffected by the Senate Finance Committee changes. However, we understand that Chairman McCain has now agreed with Democratic negotiators to raise the annual liability cap to \$8 billion and to strengthen the "look-back" penalties.

Under the excise tax schedule adopted in the Finance Committee changes to the McCain bill, the annual industry payments (other than the "look-back" penalties) would be replaced by an excise tax approach that is estimated to raise on the order of \$15-18 billion annually, with a total of \$48 billion in the first 5 years and a total of \$132 billion in the first 10 years.

A portion of the revenues raised would be shared with the States, with the States receiving 30 percent of the revenues for the years 1999 through 2003, increasing to 45 percent thereafter. California's share would be 8.695 percent.

The tobacco industry is expected to mount a full-scale offensive on the Senate Floor, but may not have the votes to block the measure altogether.

On the House side, matters are much more in flux. A bipartisan compromise approach negotiated by House Commerce Chairman Tom Bliley (R-Va.) and ranking Democrat Henry Waxman (D-Ca.) was thwarted by the

House GOP leadership. Another bipartisan effort is being mounted by Reps. Jim Hansen (R-Utah) and Martin Meehan (D-Mass.) that would raise cigarette taxes by \$1.50 per pack over 3 years and require total payments by the industry in the range of \$500 billion. However, the House GOP leadership is quietly discouraging support for this package.

Recent polling data suggests that voters will not necessarily respond negatively toward Republicans in November if Congress is unable to pass a broad-scale tobacco package this year. Meanwhile, the industry has regained some momentum and is mounting pressure on the House and Senate GOP leadership with a big tax/big bureaucracy/black market theme. All of this has emboldened the House GOP leadership to adopt a "slowed-down" approach to the tobacco legislation.

In the end, the biggest obstacle may simply be the clicking clock, with less than 40 legislative days remaining in the session.

### **Broad Pension Liberalization Legislation**

Reps. Rob Portman (R-Ohio) and Ben Cardin (D-Md.) have continued their championship of bipartisan comprehensive pension reform legislation by introducing H.R. 3788, the Retirement Security for the 21st Century

The legislative package includes a broad range of items of interest to State and local government retirement plans, including increases in the annual limits on permissible benefits and contributions; increased portability by allowing workers changing jobs to roll eligible distributions among tax-qualified defined contribution and defined benefit plans, section 403(b) plans, and section 457 plans; catch-up contributions for older workers under salary reduction plans; liberalization of the section 457 plan contribution limits, and a series of other liberalizations. The legislation, as well as a summary and a detailed explanation, have been provided to STRS staff for their review.

No revenue cost has been announced for the Portman-Cardin package.

### **Securities Litigation Reform**

Legislation to curtail the use of State law and State courts for class action securities fraud claims involving publicly-traded companies is moving through Congress and could become law within the next month.

On April 29, the Senate Banking, Housing and Urban Affairs Committee approved by a 14-4 vote legislation (S. 1260) that would bar class action securities fraud suits based upon State law where securities listed on national exchanges are involved and would permit the defendant in any class action securities fraud litigation to remove the case to Federal court. As reported previously, the measure is being cast as a follow-up to the Private Securities Litigation Reform Act of 1995, aimed at curbing abuses in Federal class action securities litigation and is perceived to have led to a shift to State court for pursuit of the types of class actions that the Federal statute sought to curb.

The Committee adopted several changes to the legislation as introduced, including permitting State courts to continue to consider class actions involving 50 or fewer (rather than 25 or fewer) class members, clarifying that investors still may recover under claims of reckless misconduct by the company, and preserving State court class action claims for information given by the company to shareholders directly at events such as annual meetings open only to shareholders (in contrast to information given to the public generally).

Securities and Exchange Commission Chairman Arthur Levitt along with a majority of his fellow commissioners has now endorsed the legislation as amended.

The measure passed the full Senate on May 13, 1998 by a vote of 79-21. The Senate did add an amendment preserving the right of State and local governments and State and local pension plans to bring a securities fraud claim under State law in their own right or as a member of a class of State and local governments or government pension plans. (A copy of the amendment has been transmitted to STRS staff.)

On the House side, House Majority Leader Armey (R-Tex.) has pledged prompt Floor action on the measure, which could come by July. The House counterpart (H.R. 1689) is expected to be considered by the House Commerce Committee shortly, with the bill being marked up on Subcommittee on May 19.

John S. Stanton

May 15, 1998